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Attorneys for Plaintiff Fitbit, Inc.

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

FITBIT, INC.,

Plaintiff,

v.

KONINKLIJKE PHILIPS N.V.,

Defendant.

Case No.

**COMPLAINT FOR DECLARATORY  
JUDGMENT**

**COMPLAINT FOR DECLARATORY JUDGMENT  
Case No.**

**COMPLAINT FOR DECLARATORY JUDGMENT**

Plaintiff Fitbit, Inc. (“Fitbit”) for its complaint against Koninklijke Philips N.V. (“Defendant” or “Philips” and a.k.a. “Royal Philips”) alleges and states as follows:

**THE PARTIES**

1. Fitbit is a Delaware corporation with its principal place of business located at 405 Howard Street, San Francisco, CA 94015.

2. On information and belief, Koninklijke Philips N.V. is a corporation duly organized and existing under the laws of the Netherlands with its principal place of business at High Tech Campus 5, 5656 AE Eindhoven, the Netherlands.

**JURISDICTION AND VENUE**

3. This action for declaratory judgment arises under federal law, and this Court has jurisdiction pursuant to 28 U.S.C. §§ 1331, 1338(a), 2201, and 2202.

4. This Court has personal jurisdiction over Defendant Koninklijke Philips N.V. pursuant to, inter alia, California Code of Civil Procedure § 410.10 and/or Federal Rule of Civil Procedure 4(k)(2), including because Philips engages in regular business in the United States and State of California, including business concerning the Patents-in-Suit and this dispute as defined below.

5. Venue is proper in this court pursuant to 28 U.S.C. §§ 1391(b), (c).

**PATENTS-IN-SUIT**

6. U.S. Patent No. 7,845,228 (the “’228 Patent”), entitled “Activity Monitoring,” was issued by the U.S. Patent and Trademark Office on December 7, 2010. Philips has alleged that the ’228 patent is assigned to Koninklijke Philips N.V. A copy of the ’228 patent is attached as **Exhibit A**.

7. U.S. Patent No. 9,820,698 (the “’698 Patent”), entitled “Actigraphy Methods and Apparatuses” was issued by the U.S. Patent and Trademark Office on November 21, 2017. Philips has alleged that the ’698 patent is assigned to Koninklijke Philips N.V. A copy of the ’698 patent is attached as **Exhibit B**.

1           8.       U.S. Patent No. 9,717,464 (the “’464 Patent”), entitled “Continuous Transdermal  
2 Monitoring System and Method” was issued by the U.S. Patent and Trademark Office on August 1,  
3 2017. Philips has alleged that the ’464 patent is assigned to Koninklijke Philips N.V. A copy of the  
4 ’464 patent is attached as **Exhibit C**.

5           9.       The ’228 patent, ’698 patent, and ’464 patent are collectively referred to herein as the  
6 “Patents-in-Suit.”

### 7 **BACKGROUND**

8           10.      Plaintiff Fitbit is globally recognized technology company headquartered in San  
9 Francisco and focused on delivering health solutions that impact health outcomes. Fitbit’s mission is  
10 to empower and inspire users to live healthier, more active lives. Fitbit designs and sells products  
11 that fit seamlessly into users’ lives so that consumers can achieve their health and fitness goals.

12           11.      Fitbit’s line of wearable smartwatches and trackers includes the Fitbit Charge 3™,  
13 Fitbit Inspire™, Fitbit Inspire HR™, and Fitbit Ace 2™ activity trackers, in addition to the  
14 Fitbit Ionic™, Fitbit Versa 2™ and Fitbit Versa Lite Edition™ smartwatches. Fitbit’s advanced  
15 family of smartwatches and trackers are the result of Fitbit’s investment of hundreds of millions of  
16 dollars per year in research and development (including in this judicial district), resulting in  
17 numerous technological advances and hundreds of patents worldwide. Based on Fitbit’s research and  
18 design, its smartwatches and trackers are widely recognized as among the best and most advanced  
19 products of their type. *See, e.g.*, <https://www.fitbit.com/us/buzz>.

20           12.      Fitbit smartwatches and trackers enable users to view data about their daily activity,  
21 exercise, and sleep. Fitbit’s software and services, which include an online dashboard and mobile  
22 app, provide its users with data analytics, motivational and social tools, and virtual coaching through  
23 customized fitness plans and interactive workouts. These devices track users’ daily steps, calories  
24 burned, distance traveled, and active minutes, and display real-time feedback to encourage users to  
25 become more active in their daily lives. Together, Fitbit’s devices, services, and software have  
26 helped millions of users on their health and fitness journeys be more active, sleep better, eat smarter,  
27 and manage their weight.

1           13.     Fitbit’s smartwatches and trackers thus enable a wide range of people to get fit their  
 2     own way, whatever their interests and goals. Fitbit’s users range from people interested in improving  
 3     their health and fitness through everyday activities, to endurance athletes seeking to maximize their  
 4     performance. To address this wide range of needs, through its research and development, Fitbit  
 5     designs its devices to create powerful yet easy to use products that fit seamlessly into peoples’ daily  
 6     lives and activities. As a result of Fitbit’s efforts and research, its smartwatches and trackers have  
 7     aided millions of people in meeting their fitness and health goals, including in California and this  
 8     judicial district.

9           14.     On December 10, 2019, Defendant Philips, in conjunction with its subsidiary Philips  
 10    North America, LLC, filed a Complaint with the United States International Trade Commission, and  
 11    directed it to be served on Fitbit at its headquarters in San Francisco. Philips’s ITC Complaint seeks  
 12    to bar importation or sale of Fitbit’s entire current line of smartwatches and trackers as allegedly  
 13    infringing Philips’s Patents-in-Suit. *See Exhibit D* (Philips ITC Complaint). Philips’s Complaint  
 14    also seeks a permanent cease-and-desist order barring Fitbit from “marketing, advertising,  
 15    demonstrating, ... offering for sale, selling, distributing, or using” its entire current line of  
 16    smartwatches and trackers, including in California and in this judicial district. *See id.* ¶¶ 4–5.  
 17    According to Philips, its own products practice the Patents-in-Suit (which it variously developed,  
 18    markets, sells, and offers for sale in the United States, including in California and in this judicial  
 19    district). *See id.* at Complaint ¶¶ 6–20, 232–245. Philips asserts that its “Lifeline,” “Motion  
 20    Biosensor,” “Connected Sensing,” and “Sleep Diagnostics” products sold throughout the United  
 21    States variously practice the Patents-in-Suit, and that the alleged “unauthorized use of [its] patented  
 22    inventions by Fitbit” is an “unlawful and unfair” act that threatens Philips’s own U.S. domestic  
 23    industry commercializing these patents. *See id.*<sup>1</sup>

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 26  
 27    <sup>1</sup> Cf. <https://www.lifeline.philips.com/>; <http://www.actigraphy.com/solutions/actigraphy.html>;  
 28    <https://www.usa.philips.com/healthcare/innovation/research-and-exploration/connected-sensing>  
<https://www.usa.philips.com/healthcare/solutions/sleep/sleep-diagnostics>.

15. Although Fitbit vigorously denies Philips’s allegations of infringement, *see* **Exhibit E** (Fitbit Response), Philips nevertheless continues to seek to disrupt Fitbit’s business and keep Fitbit’s health-promoting products from the public based on patents that Fitbit’s products do not infringe.

16. Given the above, there is a substantial and present controversy between Fitbit and Philips. Fitbit and Philips have adverse legal interests with respect to the question of infringement of the Patents-in-Suit. Given the above, this dispute between Fitbit and Philips is immediate and real.

## COUNT I

## **DECLARATORY JUDGMENT OF NON-INFRINGEMENT OF THE '228 PATENT**

17. Fitbit incorporates the preceding paragraphs as if fully set forth herein.

18. Fitbit's smartwatches and trackers have not infringed and do not infringe any claim of the '228 patent.

19. None of Fitbit's smartwatches and trackers meet all of the claim elements recited in any claim of the '228 patent. For example, contrary to allegations made by Philips, none of Fitbit's smartwatches and trackers comprise the "activity monitor" claimed in claim 1 of the '228 patent, including "a processor operable to receive the sensor signals from the measurement unit and to process the sensor signals in accordance with a predetermined method, characterized in that the activity monitor is operable to monitor and process the sensor signals discontinuously in time and the processor is operable to monitor the sensor signals in turn." Neither do any of Fitbit's smartwatches and trackers comprise the activity monitor of claim 1 "wherein the measurement unit is operable to output the sensor signals discontinuously in time" as recited in claim 2 of the '228 patent.

20. Fitbit's smartwatches and trackers similarly do not comprise the activity monitor of claim 1 "wherein the processor is operable to monitor the sensor signals discontinuously in time" as recited in claim 3 of the '228 patent. Further, none of Fitbit's smartwatches and trackers are used to perform the "method of monitoring activity" claimed in claim 8 of the '228 patent, including "receiving the sensor signals and processing the sensor signals in accordance with a predetermined method, characterized in that the sensor signals are monitored and processed discontinuously in time and the sensor signals are monitored in turn."

21. Fitbit is thus entitled to a declaration pursuant 28 U.S.C. §§ 2201 and 2202 that Fitbit's smartwatches and trackers do not infringe any claim of the '228 patent.

## COUNT II

### **DECLARATORY JUDGMENT OF NON-INFRINGEMENT OF THE '698 PATENT**

22. Fitbit incorporates the preceding paragraphs as if fully set forth herein.

23. Fitbit's smartwatches and trackers have not infringed and do not infringe any claim of the '698 patent.

24. None of Fitbit's smartwatches and trackers meet all of the claim elements recited in any claim of the '698 patent. For example, contrary to allegations made by Philips, none of Fitbit's smartwatches and trackers comprise the "physiological monitoring device" claimed in claim 1 of the '698 patent, including "an electronic digital signal processing (DSP) device configured to perform operations including: computing a body motion artifact (BMA) signal as a function of time from the non-body motion physiological parameter signal, and computing an actigraphy signal as a function of time from the BMA signal." Neither do any of Fitbit's smartwatches and trackers comprise the physiological monitoring device of claim 1 "wherein computing a BMA signal as a function of time from the non-body motion physiological parameter signal comprises computing a local signal variance signal from the non-body motion physiological parameter signal" as recited in claim 6 of the '698 patent.

25. Further, none of Fitbit's smartwatches and trackers comprise the "non-transitory storage medium storing instructions readable and executable by an electronic data processing device to perform a physiological monitoring method" claimed in claim 14 of the '698 patent, including "computing a body motion artifact (BMA) signal comprising one of a local signal power signal, a local signal variance signal, a Short-Time Fourier Transform (STFT) signal, and a wavelet transform signal as a function of time from a non-body motion physiological parameter signal as a function of time for a physiological parameter other than displacement, acceleration, and velocity wherein a BMA signal sample is computed for each time window of a succession of time windows; and computing an actigraphy signal as a function of time from the BMA signal."

26. Further, none of Fitbit's smartwatches and trackers comprise the "physiological monitoring device" claimed in claim 18 of the '698 patent, including "at least one processor programmed to: compute a body motion artifact (BMA) signal as a function of time from the non-body motion physiological parameter signal; applying a linear transform to the BMA signal; compute an actigraphy signal as a function of time from the applied linear transform BMA signal."

27. Fitbit is thus entitled to a declaration pursuant 28 U.S.C. §§ 2201 and 2202 that Fitbit's smartwatches and trackers do not infringe any claim of the '698 patent.

### COUNT III

## **DECLARATORY JUDGMENT OF NON-INFRINGEMENT OF THE '464 PATENT**

28. Fitbit incorporates the preceding paragraphs as if fully set forth herein.

29. Fitbit's smartwatches and trackers have not infringed and do not infringe any claim of the '464 patent.

30. None of Fitbit's smartwatches and trackers meet all of the claim elements recited in any claim of the '464 patent. For example, contrary to allegations made by Philips, none of Fitbit's smartwatches and trackers are used to perform the "method for minimizing the effects of motion artifact on sensor readings taken during continuous transdermal monitoring of a body part in motion" claimed in independent claim 1 of the '464 patent, including "monitoring, with a processor, an output signal from an accelerometer, wherein the output signal indicates acceleration and deceleration of the body part of a user as the body part is in motion; determining, with the processor, that the output signal is within a predetermined range that includes indication of acceleration and deceleration, wherein indication of acceleration and deceleration corresponds with a motion direction change of the body part in motion; based on the determination that the output signal is within the predetermined range, monitoring, with the processor, a plurality of readings from a sensor, wherein monitoring the plurality of readings from the sensor occurs over a time window that coincides with the output signal remaining within the predetermined range; and recording in a memory device the monitored plurality of readings from the sensor." Similarly, none of Fitbit's smartwatches and trackers are used to

1 perform “[t]he method of claim 1, wherein the accelerometer is a 3-axis accelerometer” as recited in  
2 claim 6 of the ’464 patent.

3 31. Further, none of Fitbit’s smartwatches and trackers comprise the “system for  
4 minimizing the effects of motion artifact on sensor readings taken during continuous transdermal  
5 monitoring of a body part in motion” claimed in claim 8 of the ’464 patent, including “a sensor  
6 package comprising a processor, an accelerometer, a sensor and a memory device, the sensor package  
7 configured to: monitor an output signal from the accelerometer, wherein the output signal indicates  
8 acceleration and deceleration of the body part of a user as the body part is in motion; determine that  
9 the output signal is within a predetermined range that includes indication of acceleration and  
10 deceleration, wherein indication of acceleration and deceleration corresponds with a motion direction  
11 change of the body part in motion; based on the determination that the output signal is within the  
12 predetermined range, monitor a plurality of readings from the sensor, wherein the monitored plurality  
13 of readings from the sensor occurs over a time window that coincides with the output signal  
14 remaining within the predetermined range; and record the monitored plurality of readings from the  
15 pulse oximeter in the memory device.”

16 32. Further, none of Fitbit’s smartwatches and trackers comprise the “computer program  
17 product comprising a non-transitory computer usable medium having a computer readable program  
18 code embodied therein, said computer readable program code adapted to be executed by a processor  
19 and cause the processor to implement a method for minimizing the effects of motion artifact on  
20 sensor readings taken during continuous transdermal monitoring of a body part in motion” claimed in  
21 claim 15 of the ’464 patent, including “monitoring an output signal from an accelerometer, wherein  
22 the output signal indicates acceleration and deceleration of the body part of a user as the body part is  
23 in motion; determining that the output signal is within a predetermined range that includes indication  
24 of acceleration and deceleration, wherein indication of acceleration and deceleration corresponds  
25 with a motion direction change of the body part in motion; based on the determination that the output  
26 signal is within the predetermined range, monitoring a plurality of readings from a sensor, wherein  
27 monitoring the plurality of readings from the sensor occurs over a time window that coincides with  
28



1 the output signal remaining within the predetermined range; and recording the monitored plurality of  
2 readings from the sensor.”

3 33. Fitbit is thus entitled to a declaration pursuant 28 U.S.C. §§ 2201 and 2202 that  
4 Fitbit’s smartwatches and trackers do not infringe any claim of the ’464 patent.

5 **PRAYER FOR RELIEF**

6 WHEREFORE, Fitbit respectfully requests that this Court enter judgment in its favor as  
7 follows:

8 a) Declaring that Fitbit’s smartwatches and trackers have not infringed and do not  
9 infringe any claim of Philips’s Patents-in-Suit; and

10 b) Declaring this to be an exceptional case and awarding Fitbit its costs, expenses,  
11 and disbursements in this action, including reasonable attorney fees, pursuant to 28 U.S.C.  
12 § 285.  
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Dated: April 2, 2020

/s/ Stuart Rosenberg  
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